

House Study Bill 571 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to transfer of guardianship in child in need of
2 assistance proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 232.101A Transfer of guardianship
2 to custodian.

3 1. After a dispositional hearing the court may enter an
4 order transferring guardianship of the child to a custodian if
5 all of the following conditions are met:

6 a. The person receiving guardianship meets the definition
7 of custodian in section 232.2.

8 b. The person receiving guardianship has assumed
9 responsibility for the child for at least the six consecutive
10 months prior to filing of the petition under this division and
11 has maintained placement of the child since the filing of the
12 petition under this division.

13 c. The parent of the child does not appear at the
14 dispositional hearing, or the parent appears at the
15 dispositional hearing, does not object to the transfer of
16 guardianship, and agrees to waive the requirement for making
17 reasonable efforts as defined in section 232.102.

18 2. If the court transfers guardianship pursuant to
19 subsection 1, the court may close the child in need of
20 assistance case by transferring jurisdiction over the child's
21 guardianship to the probate court. The court shall inform the
22 proposed guardian of the guardian's reporting duties under
23 section 633.669 and other duties under chapter 633. Upon
24 transferring jurisdiction, the court shall direct the probate
25 clerk, once the proposed guardian has filed an oath of office
26 and identification in accordance with section 602.6111, to
27 issue letters of appointment for guardianship and docket the
28 case in probate. Records contained in the probate case file
29 that were copied or transferred from the juvenile court file
30 concerning the case shall be subject to section 232.147 and
31 other confidentiality provisions of this chapter for cases not
32 involving juvenile delinquency.

33 Sec. 2. Section 633.675, subsection 2, Code 2014, is amended
34 to read as follows:

35 2. Notwithstanding subsection 1, paragraphs "a" through

1 "d", if the court appointed a guardian for a minor child for
2 whom the court's jurisdiction over the child's guardianship
3 was established pursuant to transfer of the child's case in
4 accordance with section 232.101A or 232.104, the court shall
5 not enter an order terminating the guardianship before the
6 child becomes age eighteen unless the court finds by clear
7 and convincing evidence that the best interests of the child
8 warrant a return of custody to the child's parent.

9 Sec. 3. Section 633.679, subsection 2, Code 2014, is amended
10 to read as follows:

11 2. Unless the child or guardian dies or other exceptional
12 circumstances arise, if the court has appointed a guardian
13 for a minor child for whom the court's jurisdiction over the
14 child's guardianship was established pursuant to transfer
15 of the child's case in accordance with section 232.101A
16 or 232.104, a petition shall not be filed asking that the
17 guardianship be terminated or modified until at least six
18 months has elapsed from the date the order was entered
19 appointing the guardian.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to transfer of guardianship in child in
24 need of assistance proceedings. Currently, a court must enter
25 the least restrictive disposition that is appropriate following
26 a hearing on the child in need of assistance petition. These
27 dispositions include a suspended judgment, the retention of
28 custody by a parent, and the transfer of legal custody of the
29 child. The bill adds another disposition: the transfer of
30 guardianship of the child. The bill allows the transfer of
31 guardianship of a child to a custodian after the dispositional
32 hearing if the person receiving guardianship meets the
33 statutory definition of a custodian, the person receiving
34 guardianship has assumed responsibility for the child for six
35 consecutive months prior to the filing of the child in need

1 of assistance petition and has maintained responsibility for
2 the child after the filing of the petition, and the parent of
3 the child either does not appear at the dispositional hearing
4 or the parent appears and does not object to the transfer of
5 guardianship and agrees to waive the requirement for making
6 reasonable efforts to prevent or eliminate the need for removal
7 of the child from the child's home.

8 The bill also states that if the court transfers
9 guardianship pursuant to the bill, the court may close the
10 child in need of assistance case by transferring the case to
11 probate court. The court has the responsibility to inform the
12 guardian of the statutory reporting requirements and other
13 duties of the guardianship.

14 The bill makes conforming changes.